IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 7981 of 2007(S)

AGAINST THE ORDER IN IA 3736/2006. IN OP.1488/2006 of FAMILY COURT,THRISSUR

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PETITIONER:
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1. K.L.DEVY, KONIKKARA HOUSE, KOCHERY, P.O.ANCHERY, THRISSUR.

2. TREESA, W/O.KONIKKARA DEVY, KACHERY, P.O.ANCHERY, THRISSUR.

BY ADV. SRI.N.P.SAMUEL

RESPONDENTS:

JOSEPH ANTONY, S/O.XAVIER JOSEPH, KAITHAVALAPPIL HOUSE, SOUTH CHELLANAM, KOCHI.

BY ADV. SRI.BASANT BALAJI
SMT.K.GIRIJA (ADV.COMMR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.7981/2007

A P P E N D I X

PETITIONERS' EXHIBITS :

EXT.P1 TRUE COPY OF CHEQUE FOR RS.10,000/- DT. 20.12.2003 OF THE UNION BANK OF INDIA.

EXT.P2 TRUE COPY OF DISHONOUR MEMO DT. 13.1.2004 ISSUED BY THE UNION BANK OF INDIA.

EXT.P3 TRUE COPY OF CHEQUE FOR RS.10,000/- DT. 30.3.2004 OF THE UNION BANK OF INDIA.

EXT.P4 TRUE COPY OF DISHONOUR MEMO DT. 7.4.2004 OF THE UNION BANK OF INDIA.

EXT.P5 TRUE COPY OF CERTIFICATE DT. 15.12.2006 ISSUED BY HEADMISTRESS, ST.JOSEPH'S NURSERY SCHOOL.

EXT.P6 TRUE COPY OF ORDER IN I.A.3736/06 IN O.P.NO.1488/06 OF THE FAMILY COURT, THRISSUR DT. 5.3.2007.

TGS

KURIAN JOSEPH & K.T.SANKARAN, JJ.

W.P.(C) No.7981 of 2007

Dated 4th April, 2007.

J U D G M E N T

Kurian Joseph, J.

The writ petition is filed challenging Ext.P6 order passed by the Family Court, Thrissur. The issue pertains to the custody of minor child, Iphrayem Jose Lal. The respondent Joseph Antony is the father and Smt.Preetha is the mother. Both are present. They were present yesterday also. We had extensive discussion with them. It is brought to our notice that Smt.Preetha has filed a petition for divorce and the same is now pending before the Family Court, Thrissur. It is submitted that she has to go back to Ireland on 14.4.2007 and she intends to take the child to Ireland. It might take some more time to get the travel documents to be ready. In the above circumstances, as far as the custody of the child is concerned, in the interests of the child and as agreed to between the parties, the following orders are issued:-

(1) The dispute is only between the husband and wife. The child hence, has the undisputed father and the mother. After Smt.Preetha leaves for Ireland on 14.4.2007, the custody of the

child will be given to Sri.Joseph Antony for a week. Sri.Joseph Antony undertakes that in case there is any difficulty for the child to be with him or to be at his residence at Chellanam, he will entrust the custody back to the parents of Smt.Preetha at Thrissur. In any case, the child will be taken back to the grand parents on 22.4.2007.

(2) It will be open to Smt.Preetha to take the child to Ireland and educate him there. Smt.Preetha submits that she would be visiting Kerala hopefully once in a year. Two weeks prior to such visit to Kerala, she would give intimation regarding her visit to Sri.Joseph Antony and during her stay in Kerala, Joseph Antony shall be permitted occasional custody of the child and he shall also be permitted to mingle with the child.

(3) Before the child is taken to Ireland on 14.4.2007 Sri.Joseph Antony shall be permitted to mingle with the child in the presence of the mother for a day.

(4) When the child is either with the mother or the father, the father and mother and parents of the mother shall be permitted to have telephone access to the child.

(5) In case the parties find any difficulty with regard to the implementation of this judgment, we make it clear that it will be

open to them to approach the Family Court, Thrissur and the court will be free to pass appropriate orders.

In that view of the matter, no further orders are necessary in O.P.No.1488/06 on the file of the Family Court, Thrissur. The same shall stand disposed of in terms of this judgment. A copy of this judgment would be placed in that file.

I.A.4569/07 : Dismissed.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

tgs

KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.

KURIAN JOSEPH & K.T.SANKARAN, JJ.

L.A.A.No. of 2003

Dated 4th April, 2007.

J U D G M E N T

Kurian Joseph, J.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

tgs

KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 4th April, 2007.